IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.Rev.Pet.No. 8 of 2004()

CMP.525/2003 of ENQUIRY COMMR. & SPL. JUDGE, THRISSUR

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REVN. PETITIONER: COMPLAINANT

JOSEPH PAUL, ARAMBANKUDIYIL,
NJAYAPILLY P.O., KOTHAMANGALAM 686 691

BY ADV. SRI.SAIGI JACOB PALATTY

RESPONDENTS: RESPONDENT

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1. JOY ABRAHAM, ASISTANT ENGINEER,
P.W.D. BUILDING SECTION, KOTHAMANGALAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 8 OF 2004 A

Dated this the 9th day of October, 2007

O R D E R

The revision petitioner, who is the complainant in CMP No.525/03 on the file of the Enquiry Commissioner and Special Judge, Thrissur, sought to prosecute the first respondent complainant herein who was an Assistant Engineer, PWD Building Section, Kothamangalam, for offences punishable under sections 7 and 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988. The revision petitioner claims himself to be the convenor of the beneficiary committee constituted under the people planning programme to construct a check dam in Arambankudy thodu at Njayappally within the Kuttampuzha Grama Panchayat. According to the revision petitioner, the 1st respondent, Assistant Engineer who was supervising the work had been guilty of not maintaining the statutory registers and books in accordance with law and had with corrupt motive demanded a sum of Rs.15,000/- as illegal gratification from the complainant for obliging him and that a complaint preferred by the revision petitioner before the Vigilance police did not yield any result and

hence the complaint.

2. The complaint was filed on 12.5.03. On 30.8.03 the sworn statement of the complainant was recorded and on 3.9.03 the court below passed the impugned order dismissing the complaint. The order reads as follows:-

> "No prima facie case to initiate action against the respondent under the Prevention of Corruption Act. Hence this complaint is dismissed."

It is the said order which is assailed in this revision.

3. The learned counsel appearing for the revision petitioner/complainant submitted that the Special Judge was bound to order a preliminary enquiry before passing final orders on the complaint. He relied on the decision in **Sreekumar S. Menon Vs. State of Kerala** [2004 (2) KLT 53].

4. Eventhough the decision cited by the learned counsel for the revision petitioner may not apply to an accusation under section 7 and 13(1)(d) of the P.C. Act and would apply only to the case of a public servant amassing wealth disproportionate to the known source of his income, in as much as the court below has

dismissed the complaint by a laconic order, I am of the view that the order cannot be sustained for want of reasons in support of the same. The complainant had produced 9 documents along with the complaint and had also given his sworn statement. Since the Magistrate was terminating the proceedings by dismissing the complaint, he was bound to give reasons in support of such dismissal. The cryptic order by which the complaint has been dismissed is accordingly set aside and that court is directed to dispose of the matter in accordance with law. In case that court finally decides to dismiss the complaint and thereby terminate the proceedings it shall give reasons in support of such dismissal. The revision petitioner shall appear before the Special Court without any further notice on 30.10.07.

In the result, this revision is allowed as above.

(V. RAMKUMAR, JUDGE)

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